



Request for City Council Committee Action From the Department of Public Works

Date: February 4, 2003

To: Honorable Sandy Colvin Roy, Chair Transportation and Public Works Committee

Subject: Appeal of the denial of an encroachment permit to leave portions of an earth retention system in a public alley (Opus Corp. on behalf of St. Thomas University)

Recommendation: That the City Council deny the applicant's appeal and order the removal of the encroachments.

Previous Directives: None

Prepared by: Dennis Morris, Right of Way Supervisor. 673-3607

Approved: Brian J. Lokkesmoe, P. E., Interim City Engineer, Director of Public Works

By: Paul W. Ogren _____

Presenters: Dennis Morris, Right of Way Supervisor

Financial Impact (Check those that apply)

☒ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

☐ Action requires an appropriation increase to the Capital Budget

☐ Action requires an appropriation increase to the Operating Budget

☐ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☐ Other financial impact (Explain):

☐ Request provided to the Budget Office when provided to the Committee Coordinator

Background/Supporting Information Attached

During the construction of the St. Thomas University parking ramp in summer/fall 2002, Opus Corp installed an earth retention system in City right of way without obtaining any prior approvals or permits. The project site is adjacent to a public alley that lies between Harmon and Hennepin Ave and 11th and 12th St S. (See Attachment 1 Aerial photo).

Neither Opus Corp' excavation and footings plans submitted to the Inspections Division for permit approval or the Site Plan approved by the Public Works Department identified any retention system within the public right of way. Since the discovery of the illegal encroachment in mid November up until the encroachment application by Opus Corp was received on January

2, 2003, Public Works staff were in repeated contact with Opus Corp to obtain the proper permits. During that period, Opus Corp partially removed the retention system without Public Works' knowledge or approval. The abandoned equipment consists of steel I-beams that have been cut off at a depth of 6 to 8 feet below the alley grade.

On January 17, 2003 the City received a request from Opus Corp for an appeal of the Public Works Department's denial of the encroachment permit (Attachment 2. Opus letter). It is Public Works assumption that Opus Corp was applying for the permit on behalf of their client - St. Thomas University. If the City were to grant such a permit, it would be granted to the property owner of record - St. Thomas University. City Ordinance, Chapter 429 and 430, addresses abandoning structures within public rights of way. Public Works policy is to require the removal of retention systems utilized during foundation construction. We have this policy to prevent damage to public infrastructure (sewer, water, curbs, sidewalks, streets, etc.) caused by shifting or deterioration of the abandoned equipment. Additionally, future public and private projects may encounter these abandoned structures during construction and incur additional costs to remove them or relocate around them.

It is important to note that Veit and Company, Inc installed the retention system as a subcontractor for Opus Corp. They are the same contractors that installed a similar system in Nicollet Mall in 1999-2000 that led to a lengthy dispute and eventually to a settlement agreement between the City and the property owner. Veit and Company has duplicated the same problem at this site and Opus is requesting an identical solution to the problem (see Attachment 3 Background information).

Attachment 1: Opus letter

Attachment 2. Aerial photo

Attachment 3: Background information

C: Council Member Lisa Goodman, Ward 7
St. Thomas University
Opus Corporation